

APR 30 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARK ANTHONY,

Plaintiff - Appellant,

v.

TODD HENRY,

Defendant - Appellee,

and

SACRAMENTO COUNTY SHERIFF'S
DEPARTMENT; et al.,

Defendants.

No. 06-15396

D.C. No. CV-02-01899-
GEB/GGH

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, Chief Judge, Presiding

Submitted April 22, 2008^{**}

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Mark Anthony appeals pro se from the district court's judgment after a jury trial, dismissing his 42 U.S.C. § 1983 action alleging excessive force by an arresting officer. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court's evidentiary rulings, *Tritchler v. County of Lake*, 358 F.3d 1150, 1155 (9th Cir. 2004), and we affirm.

The district court did not abuse its discretion by refusing to admit Anthony's medical records into evidence for impeachment purposes because Anthony failed to authenticate the records. *See* Fed. R. Evid. 803(6) (requiring custodian or other qualified witness to authenticate records).

Anthony's remaining contentions are unpersuasive.

Anthony's motion for appointment of counsel and request for judicial notice are denied.

AFFIRMED.